IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIIL JURISDICTION

COMPANY APPLICATION NO.341 OF 2006

IN

OFFICIAL LIQUIDATOR REPORT DATED 8/12/2005

IN

COMPANY PETITION NO.253 OF 2002

Shashi Kumar Jain ..Applicant.

V/s.

Official Liquidator ..Respondent.

Ms.Jigna V. Joshi i/b. Thakore Jariwala & Ass. for applicant.

Mrs.K.V.Gautam, Dy. O.L.

CORAM : DR.D.Y.CHANDRACHUD, J.

DATED : 29TH MARCH, 2007.

P.C. :-

By its order dated 8th December, 2005 this Court allowed the request made by the Official Liquidator to file a Criminal complaint under Section 454 of the Companies Act, 1956 against the ex-Directors of the Company. The prayer in the Company Application besides seeking the condonation of delay of 30 days in prosecuting the application is for recalling the order dated 8th December,2005.

2. The company was ordered to be wound up on 12th December, 2001 and the Official Liquidator was appointed as provisional liquidator. The grievance of the applicant is that the Official Liquidator's report was not served on the applicant nor was the applicant served with any of the correspondence. Moreover, it has been urged that the documents which were sought by the Official Liquidator are lying in the premises of the Company at Aurangabad which have been taken possession of by the Official Liquidator in 2003. During the pendency of the application, the statement of affairs was filed by the applicant. The Official Liquidator took time to examine the statement and on 14th September, 2006 certain deficiencies were disclosed therein by the Official Liquidator before the Court. The Official Liquidator also addressed a letter on 13th September, 2006 to the applicant. Consequently, the application was adjourned on 14th September, 2006, 5th October, 2006 and 13th November, 2006. On 18th March, 2007 a further order was passed directing the applicant to disclose certain further particulars inter alia relating to statement (A) supplied by him showing the dues recoverable from various parties for more than six months, the full address of the debtors and the nature of the transactions entered into with them.

3. The Official Liquidator has stated before the Court that the applicant has complied with the requisitions and has placed on record the Minutes of the meeting held on 22nd March, 2007 which are to the following effect.

> " This meeting is convened in pursuance of the directions passed by the Hon'ble High Court on 22.3.07 in Company Application No.341 of 2006. The statement of affairs filed by the ex-directors and the subsequent correspondence between the Official Liquidator and the ex-directors are verified. It is seen that the ex-directors have complied with most of the requirements asked for by the Official Liquidator. The details of sundry debtors and sundry creditors and also the list of shareholders have already been furnished in accordance with this office letter dated 13.9.06. As regards the letter dated 16.3.07 issued by the Official Liquidator to the ex-director requesting him to take inspection of the records at the factory premises at Paithan, Aurangabad Shri Jain states that since he has already complied with the requirements, there is no need for inspection of the records for the present. "

4. In the circumstances, the Official Liquidator has stated through his representative that so far as the applicant is concerned, no useful purpose would be served in filing a Criminal Complaint and the application may be allowed.

5. Having regard to the fact that the applicant

has now complied with all the requisitions of the Official Liquidator by supplying the statement of affairs and necessary information, it would be in the interests of justice to recall the order dated 8th December, 2005 in so far as the applicant is concerned. The delay of 30 days has been satisfactorily explained and is condoned. The Company Application is accordingly made absolute in terms of prayer clause (a) & (b) with the clarification that the order is recalled only in respect of the applicant.

(DR.D.Y.CHANDRACHUD, J.)